

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DAVID I. GRAZETTE,

Plaintiff,

– against –

THE CITY OF NEW YORK, ROBERT MULLER,
MATTHEW LEVIN, EMILEE ANNE NAWA,
NEW YORK-PRESBYTERIAN HEALTHCARE
SYSTEM, SMITA AGARKAR, EMILY MENAND,
and SHARON HIRD,

Defendants.

ORDER

20-cv-965 (ER)

RAMOS, D.J.:

Pro se plaintiff David I. Grazette (“Grazette”) filed this action on February 4, 2020. Doc.

1. On April 21, 2020 the Court *sua sponte* dismissed the Complaint and granted Grazette 60 days to file an amended complaint. Doc. 9. Grazette failed to do so, and, on July 17, 2020 the Court dismissed the case for failure to state a claim. Doc. 10. At the request of Grazette the Court re-opened the case on August 24, 2020. Doc. 16.

On September 2, 2020, the Court *sua sponte* granted Grazette leave to amend. Doc. 19. The City asked the Court to stay the case until 30 days after the resolution of a Civilian Complaint Review Board (“CCRB”) investigation into Grazette’s allegations, Doc. 32, and the case was stayed on November 6, 2020. Doc. 38. The Court lifted the stay on January 7, 2022. Doc. 77.

Thereafter, on February 22, 2022 Grazette filed a second amended complaint (the “SAC”). Doc. 96. Defendants New York-Presbyterian Healthcare System (“NYPH”) and Sharon Hird filed a motion to dismiss the SAC for failure to state a claim on March 16, 2022.

Doc. 101. Grazette did not file an opposition to the motion. On March 22, 2022, the Court referred the case to Magistrate Judge Sarah L. Cave. Doc. 18.

On November 14, 2022, Judge Cave issued a Report and Recommendation (“R & R”), recommending that the motion be granted and that Grazette not be permitted to amend his claims against the Defendants. Doc. 118.

I. STANDARD OF REVIEW

A district court reviewing a magistrate judge’s report and recommendation “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). Parties may raise “specific,” “written” objections to the report and recommendation “[w]ithin fourteen days after being served with a copy.” *Id.*; *see also* Fed. R. Civ. P. 72(b)(2).

A district court reviews *de novo* those portions of the report and recommendation to which timely and specific objections are made. 28 U.S.C. § 636(b)(1)(C); *see also United States v. Male Juvenile (95-CR-1074)*, 121 F.3d 34, 38 (2d Cir. 1997). The district court may adopt those parts of the report and recommendation to which no party has timely objected, provided no clear error is apparent from the face of the record. *Lewis v. Zon*, 573 F. Supp. 2d 804, 811 (S.D.N.Y. 2008).

II. DISCUSSION

Notwithstanding that no objections were filed, the Court reviewed Magistrate Judge Cave’s thorough and well-reasoned Report and finds no error, clear or otherwise. The Court therefore adopts Magistrate Judge Cave’s recommendations.

For the reasons set forth above, Defendants’ motion to dismiss the SAC for failure to state a claim is GRANTED. The Clerk of the Court is respectfully directed to terminate the

motion, Doc. 101, and close the case.

It is SO ORDERED.

Dated: March 8, 2023
New York, New York

A handwritten signature in blue ink, appearing to read 'Edgardo Ramos', is positioned above a horizontal line.

EDGARDO RAMOS, U.S.D.J.